

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RECEIVED

MAY 15 2020

RICHARD W. NAGEL, CLERK OF COURT
COLUMBUS, OHIO

CLIFTON PIERSON

(ENTER ABOVE THE NAME OF THE PLAINTIFF IN THIS ACTION)

IF THE PLAINTIFF IS A PRISONER: PRISONER # 735 767

DRC DIRECTOR vs.

DARY MOHR et. al.

(ENTER ABOVE THE NAME OF THE DEFENDANT IN THIS ACTION)

20CV2470

Judge Marbley,

MAGISTRATE JUDGE JOLSON

IF THERE ARE ADDITIONAL DEFENDANTS PLEASE LIST THEM:

ADULT PAROLE AUTHORITY

JENNIFER A. PRIBE

NIKKI FELDER

JOHN W. COCHRAN

COMPLAINT

I. PARTIES TO THE ACTION:

PLAINTIFF: PLACE YOUR NAME AND ADDRESS ON THE LINES BELOW. THE ADDRESS YOU GIVE MUST BE THE ADDRESS THAT THE COURT MAY CONTACT YOU AND MAIL DOCUMENTS TO YOU. A TELEPHONE NUMBER IS REQUIRED.

Clifton Pierson #735-767
LeCC
P.O. Box 56
Lebanon, Ohio 45036

TELEPHONE NUMBER

IF THERE ARE ADDITIONAL PLAINTIFFS IN THIS SUIT, A SEPARATE PIECE OF PAPER SHOULD BE ATTACHED IMMEDIATELY BEHIND THIS PAGE WITH THEIR FULL NAMES, ADDRESSES AND TELEPHONE NUMBERS. IF NO ADDITIONAL PLAINTIFFS EXIST CONTINUE WITH THIS FORM.

PAGE 2 AND 3 OF THIS FORM DEAL ONLY WITH A PLAINTIFF THAT IS INCARCERATED AT THE TIME OF FILING THIS COMPLAINT.

IF YOU ARE A PRISONER FILING A CIVIL SUIT THE FOLLOWING INFORMATION IS REQUIRED:

PREVIOUS LAWSUITS:

- A. HAVE YOU BEGUN OTHER LAWSUITS IN STATE OR FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION OR OTHERWISE RELATING TO YOUR IMPRISONMENT? YES NO
- B. IF YOUR ANSWER TO A IS YES, DESCRIBE THE LAWSUIT IN THE SPACE BELOW. (IF THERE IS MORE THAN ONE LAWSUIT, DESCRIBE THE ADDITIONAL LAWSUITS ON ANOTHER PIECE OF PAPER, USING THE SAME OUTLINE.)

1. PARTIES TO THIS PREVIOUS LAWSUIT

PLAINTIFFS:

CLIFTON PIERSON

DEFENDANTS:

SHERIFF JAMES NEIL

Lt. REED

Ms. PRICE

2. COURT (IF FEDERAL COURT, NAME THE DISTRICT; IF STATE COURT, NAME THE COUNTY)

SOUTHERN DISTRICT OF OHIO, EASTERN DIV.

3. DOCKET NUMBER

1:19-cv-00843-MRB-KLL

4. NAME OF THE JUDGE TO WHOM THE CASE WAS ASSIGNED

MICHAEL R. BARRETT

5. DISPOSITION (FOR EXAMPLE, WAS THE CASE DISMISSED? WAS IT APPEALED? IS IT STILL PENDING?)

PENDING

6. APPROXIMATE DATE OF THE FILING OF THE LAWSUIT

10-4-2019

7. APPROXIMATE DATE OF THE DISPOSITION

PLACE OF PRESENT CONFINEMENT

CORRECTIONAL RECEPTION CENTER

A. IS THERE A PRISONER GRIEVANCE PROCEDURE IN THIS INSTITUTION?
YES NO

B. DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT IN THIS STATE PRISONER GRIEVANCE PROCEDURE? YES NO

C. IF YOUR ANSWER IS YES:

1. WHAT STEPS DID YOU TAKE?

2. WHAT WAS THE RESULT?

D. IF YOUR ANSWER IS NO, EXPLAIN WHY NOT.

This is not a grievable matter it is a United States Constitutional principle.

E. IF THERE IS NO PRISON GRIEVANCE PROCEDURE IN THIS INSTITUTION, DID YOU COMPLAIN TO PRISON AUTHORITIES? YES NO

F. IF YOUR ANSWER IS YES:

1. WHAT STEPS DID YOU TAKE?

2. WHAT WAS THE RESULT?

This is a matter of a federal violation(s).

DEFENDANTS:

PLACE THE NAME AND ADDRESS OF EACH DEFENDANT YOU LISTED IN THE CAPTION ON THE FIRST PAGE OF THIS COMPLAINT. THIS FORM IS INVALID UNLESS EACH DEFENDANT APPEARS WITH FULL ADDRESS FOR PROPER SERVICE.

1. Sally Miller - Director DRC
NAMES - FULL NAME PLEASE
1050 Freeway Drive, N. Columbus, Ohio 43220
ADDRESS - STREET, CITY, STATE AND ZIP CODE
2. Chairman of the Adult Parole Authority
DRC 1050 Freeway Drive, N. Columbus, Ohio 43220
3. Jennifer A. Pribis - Hearing Officer
DRC/APA 1050 Freeway Drive, N. Columbus, Ohio 43220
4. Tracy L. Delph - Hearing Officer
DRC/APA 1050 Freeway Drive, N. Columbus, Ohio 43220
5. Nikki Felder - Parole Officer (Hamilton County APA)
Reading Road - Cincinnati, Ohio
6. John W. Cockrnan - Supervisor (Hamilton County APA)
Reading Road - Cincinnati, Ohio

IF THERE ARE ADDITIONAL DEFENDANTS, PLEASE CONTINUE LISTING THEM.

STATEMENT OF CLAIM

PLEASE WRITE AS BRIEFLY AS POSSIBLE THE FACTS OF YOUR CASE. DESCRIBE HOW EACH DEFENDANT IS INVOLVED. INCLUDE THE NAME OF ALL PERSONS INVOLVED. GIVE DATES AND PLACES.

DO NOT GIVE ANY LEGAL ARGUMENTS OR CITE ANY CASES OR STATUTES.

IF YOU HAVE A NUMBER OF DIFFERENT CLAIMS; PLEASE NUMBER AND SET FORTH EACH CLAIM IN A SEPARATE PARAGRAPH. USE AS MUCH SPACE AS YOU NEED. YOU ARE NOT LIMITED TO THE PAPERS WE GIVE YOU. ATTACH EXTRA SHEETS THAT DEAL WITH YOUR STATEMENT CLAIM IMMEDIATELY BEHIND THIS PIECE OF PAPER.

DUE PROCESS

1) Narriously fourth and fifth degree felonies don't get Post Release Control (PRC); however the Department of Rehabilitation has allowed its administrative agency, the Adult Parole Authority to implement "discretionary PRC" on these felonies when desired. Discretionary, meaning arbitrary, capricious, and whimsical; based on no principles, guidelines, rationale, or procedural Due Process protections, thus no Due Process. While on this PRC, this petitioner was officially convicted of a new crime whereas the APA held no on-site violation hearing in the legally required (10) ten day time limit, nor was a revocation hearing held. Yet near the end of the new sentence the APA placed this petitioner back on PRC for the case where the legal jurisdiction was over and the PRC was not for the newly convicted case, but was retroactively accounted to the prior case, re-starting the PRC with a fresh (3) three year length, thus making the PRC imposed for an unlawful (4 1/2) four and a half years. Thus the PRC was a void sentence. I did not honor this PRC and it was months later when I met P.O. Nikki Felder who I informed of the situation, she told me she would look into it and try to get me off early. Once again no sanction or hearing, there was no mention of (2) two PRC's nor any "stacking".

Pq 2 of complaint

Stacking, at least as it was applied to this petitioner, is the unlawful act of selecting not to act or forgetting to act upon a PRC violation in a timely manner, only to return to the violation at some whimsical date in the future to allow the APA to enhance the parolee's time beyond the original sentence, and bereft of a requirement that a prisoner appear in court for the enhancement which is ran consecutive to any legally imposed sentence. This policy violates 1) three Constitutionally protected Due Process Rights; 2) it violates time limit requirements; 3) it enhances sentences that have commenced; 3) it enhances sentences without the prisoner being present in court. Stacking infringes upon a prisoner's liberty interest since it occurs without knowledge of it existing. The APA and P.D. Nikki Felder have created a bogus PRC assisted by supervisor John W. Cochran where these alleged PRC's don't give jail credit for the (8) eight months the petitioner was held on a P.D. Holder that absolutely prevented the petitioner from being released, yet somehow illogically claim the petitioner was not in their custody. Had this petitioner been found guilty by a duly elected and Learned judge, every moment of jail time would have been accredited as mandated by State Law; however, the APA, an administrative agency, has been exalted to a position above the courts and legislative law. How and by whose authority?

To totally disregard jail-time credit shows an absence of criteria that allows abuse and then masks it when it occurs. Stacking and denying jail-time are both vindictive policies that promote bias, personal vendettas, and capricious administration of law, thus unconstitutional. The courts have determined an administrative agency, elected by nobody, must honor plea bargains is there no Due Process requirement for a dismissed charge?

Pg 3 of complaint

On January (21st) twenty-first this petitioner was taken to an "on site" hearing where Nikki Felder and John W. Cochran first introduced the alleged (2) PRC's and the concept of stacking to this petitioner. Both denied credit for jail-time. I was sent to the Corrections/Reception Center to have a violation hearing on February (1st) fourth 2020, which was continued until February (19th) nineteenth 2020, which was continued until March (5th) fifth 2020. Tracy L. Delph made this continuance. There is a (10) ten working day limitation on the time to continue a violation hearing, and once again the ACP violated it's time frame, February 19, 2020 to ~~March 5, 2020~~, which 5, 2020 is (11) eleven days.

On March 5, 2020 hearing officer Jennifer A. Pribe stated in a most dismissive manner, on the record, that "I say it's (10) ten days. At this point I knew Due Process of law would not be considered. Both 'an absolute truth', it is not subject to interpretation nor even the space-time continuum. To deny math even in another galaxy, is to have a fundamental break with reality as well as a total disregard for facts and truth... Just as Pribe denied known truth she denied the fact that not one shred of evidence pointed to any guilt on my behalf of a PRC violation. In her summation she speaks of witnesses describing my clothing (every item retail), absolutely no personal features other than an older male black. The arresting officer couldn't remember if she was on a bike or a segway, so how reliable is she? And the alleged knife was found in a food bag outside a restaurant, when no witness's said I had food. The officer also stated I was a block away from the crime scene waiting for a bus, wearing an all white outfit with not a drop of blood on me, and I was not hysterical. Obviously there wasn't even a guilty state of mind. Video cameras didn't even show a crime, but Pribe's mind did. This was no hearing

it was a vendetta and abuse of authority based on preconceived biases with no interest towards truth or justice; thus another denial of Due Process.

At the conclusion of my violation hearing, hearing officer Pribe, against the manifest weight of evidence, or true preponderance of the evidence, found this petitioner guilty of Rule 13(d) & Rule 11 can not be established with video camera, the video tends to disprove the allegation. Not to mention it is not the original rule description. Rule 4 by Supreme Court definition is patently false. Violations of Due Process and Equal protection, but minor issues to Pribe.

On January 23, 2020, four days after my "on site" hearing, an article appeared in the Cincinnati Court Index

discouraging cash bonds; and their excessiveness based upon racial bias, since minorities are overrepresented in corrections facilities. The Ohio Department of Rehabilitation and Corrections was quoted as saying 57% of jail inmates are there awaiting trial due to being, showing racial and economic disparity. Armed with their own statistics how can the DRC/APA justify not giving jail-time credit, especially when a P.O. Holder is also in effect? I asked Pribe why am I not getting credit according to law, DRC, and APA excessiveness and she told me that I was not receiving credit because aside from the P.O. holder I had not made bond. Regardless of the fact that the P.O. Holder nullified making bond (since I would not be released anyway) I was told by Pribe that then my jail time would have been credited. In all reality, she told me had I been a member of the gentry class capable of putting up a half-million dollars worth of property for assurity or giving \$25,000.00 of my spare dollars to a bondsman

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I would have gotten credit for the last (8) eight months of my life it took to win my case. There are no two or three ways to view this matter, one way, without large money my life doesn't matter to Pribe or the APA. This policy can only be construed as extortion at worst or Class and Economic Discrimination at best. The United States Constitution is not economically biased whereas only the wealthy are provided rights. This is a flagrant violation of Due Process and it's not that the DRC and APA nor Pribe are not aware of it; it's intentional and who knows how many hundreds of thousands of lives have been "violated" by it.

Finally Nikki Feller, a producer in an economically deprived area, how could she possibly not care? Know?

2) Unlawful Imprisonment - I was placed on PRG, and after about a week and a half I violated it, via. consumed, and sent to prison. The APA didn't bring to a violation hearing in the required 10 day period nor a re-admission hearing while I was in prison. Near the end of my sentence I was placed on PRG again for the prior charge, thereby casting a fresh OJ (over year maximum to the year and a half already served on the PRG) they no longer had jurisdiction on it until even if they had that would be a combined four and a half (4 1/2) years PRG which would be void in law. Now after being deemed not guilty of a 5/27/19 case, the APA under Nikki Feller and John W. Cochran have retroactively reinstated me to all two PRG's; none which I've never heard of, claiming I owe 213 days on a 90 maximum sanction on a six (6) month sentence. There is no paper work regarding this matter because there was never any notice of it. The DRC and APA policy of "stacking" allows them to not give notice of additional PRG's, not credit running for PRG, and in all essence legally kidnap a parolee who has won a case. They fail to believe that they have to honor a dismissal of a case, even though the courts say they have to honor a plea agreement. The courts agree that a deprivation of jail

~~by but complaint~~

credit exceeding the prisoners sentence violates his liberty interest. All things considered this petitioner is being unlawfully detained, and punitive damages should be awarded, especially when all the defendants are aware of their actions.

3) Double Jeopardy - Everybody knows the Fifth Amendment basic standard is that no person shall be subject to the same offense twice, take it in jeopardy, except the OGA and APA. They are master of ambiguities and alternative realities. This petitioner won a court case held by an elected official. The ATF thinks that labeling a charge a "sextet" has a different overall result. It doesn't matter that America is a country of law; he being subject to Priebe and the ATF had it's their duty to skip laws. If one can not be found guilty, his gender law and right to withstand being prosecuted runs its righteous course under Color of Law. The Constitution guarantees freedom from multiple punishments for the same offense, the APA attempts to use semantics to obscure reality. When an equivalent police agency abridges rights and essentially over-hanging court does it? Double Jeopardy is in effect. Had this petitioner been found guilty of the two charges the APA claims I am on PRC for, the legitimate court would have run the charges concurrent, how then does the agency ignore jail time credit and then run charges consecutively? The (2) has legally imposed sentences added up to (allegedly) (1) twenty-one months, the PRC so actions for being found not guilty amount to (3) fifteen months (Double jeopardy on steroids). Priebe and the APA think they can hold a parolee in custody, violate him for not being guilty, and top it off by not giving him credit for being in custody. A child knows that's multiple punishments.

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4) Sentence Enhancement - It is unlawful to enhance a duly imposed sentence once it has begun. A sentence can not be enhanced without the affected party being present in court before a lawfully elected judge. Nowhere does the Constitution give any administrative agency the power to enhance sentences or have more power than a judge. The APA through Pribe and by way of Felder have taken off six month charge and re-sentenced this petitioner to an additional (15) fifteen months without legal merit. Beyond the attempted semantics and low-calorie Logic, the reality is the APA has re-sentenced this petitioner.

5) Discrimination - As stated earlier the APA is well aware of the disproportionate ratio of minorities in jail, as they are well aware that denying jail-time credit disproportionately effects them. These are not third-world illiterate people, this are college educated people who are well aware of the ramifications of their actions. They treat jail-time credit as a joke on minorities and the poor, and worse they dupe people like R.U. Felder into doing the dirty work, so as to hide their racist policies. If anyone dares to question whether these policies are ethnically and economically biased, ask yourself why do these policies exist?

6) Enactment of a poor law - The APA's lack of logic and going out of their way to create a policy that is already well established law, shows their disdain for the economically deprived. No sane person would even think of how to further oppress the down-trodden. The term Jail-time Credit speaks for itself. Only a diabolical mind-set would conceive the thought of pretending time and human life was not spent unless money has also been taken. A bond is not to hold a person in jail, nor to cause financial disaster. A bond is to ensure a party returns to court. That's all. Why would a person in America under the Constitution need to pay a fortune to be treated justly?

RELIEF

IN THIS SECTION PLEASE STATE (WRITE) BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT, CITE NO CASES OR STATUTES.

Since all of the defendants are well aware of their unethical and immoral actions, as well as their abuse of both authority and discretion there is no other suitable alternative than to provide punitive damages of a significant amount to ensure future DRC and PRC agents adhere to Due Process and Constitutional mandates. Furthermore, since these particular officials wantonly exceeded their legal limits and knowingly violated my Constitutional rights with a callous disregard for my liberty interest and general welfare as well as a dismissal of proper duty of office they all should be terminated from office immediately and be eligible to be sued in their individual capacities along with their official.

SIGNED THIS 16 DAY OF April 2020

Clifton B. Pierson
SIGNATURE OF PLAINTIFF

Ohio**Department of
Rehabilitation & Correction**

Mike DeWine, Governor
 Annette Chambers-Smith, Director

LECT

Tuesday March 10, 2020 12:50 PM

BOSC - UPDATE & CORRECTION (By: ROBERTS)

Inmate #: Name: Institution: CRC Entered Date: Admission Date:
 A735787 PIERSON, CLIFTON 3/6/2020 06/09/2017

Reason for update: Return PRC Sanction

Notes: 150 DAYS PRC SANCTION EFFECTIVE 3/6/2020

Offense Data

CCS	OFFENSE	START mmddyy	CTCL	JAIL TIME	GUNMANDEF/TERM	SB201		SB201		MIN/FULL	MAX	LD	COUNTY	DOCKET NUMBER	C N	DEG FEL	JUDGE	PROSECUTOR
						Man Min	Man Max	Min	Max									
POSS. OF NO DRUGS 2B2C.11 5		08/09/2017	1	C	56	-	-	0.50	-	-	-	-	HAMI	B1608222	C	5	CHARLES KUBICKI JR	JOSEPH T DETERS

Credit/PRC

JTC 56 PRC 3.00

Specifications

No Specification data available

Definite/Stated Years

Net Stated Terms(years)	0.50	Term 86-5 Years	0.50	PRC Sanction (days)	150
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SB201 Indefinite Years

No data for SB201 Indefinite Years

Indefinite Years

No data for Indefinite Years

Parole/Early Release Programs

No data for Parole/Early Release Programs

Specification Expiration Dates

No data for Specifications Expiration Dates

Definite/Stated Dates

Net EDS	8/2/2020	Net EST	8/2/2020	Expected Release Date	8/2/2020	86-5 Exp	10/12/2017
86-5 Fixed	10/12/2017	92-5 Cap	9/27/2017	SB2 Exp.	8/2/2020	SB2 Fixed/HB261 ZD	8/2/2020

PRC Sanction 8/2/2020

Parole Board Minimum/Maximum Dates

No data for Parole Board Minimum/Maximum Dates

SB201 Non-Life Indefinite Sentence

No data for SB201 Non-Life Indefinite Sentence

100.3